Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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No. 89-755

In The
Supreme Court of the United States
October Term, 1989

WILLIAM HARNESS,

Petitioner,

vs.

HARTZ MOUNTAIN CORPORATION

Respondent.

On Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit

MEMORANDUM OPPOSING CERTIORARI

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MEMORANDUM OPPOSING CERTIORARI

This case arose out of a claim of "reverse sex discrimination" by Petitioner on stipulated facts which were accurately stated in the Sixth Circuit's Opinion authored by Senior Circuit Judge Baily Brown (Pet. Writ 10a-13a), 877 F.2d 1307 (6th Cir., 1989).

On Motion for Summary Judgment to the United States District Court for the Western District of Kentucky, former Kentucky State Circuit Judge Thomas A. Ballantine, Jr. (Pet. Writ 14A), found the pregnancy and maternity disability leave of absence policy (the "Policy") employed by Hartz Mountain Corporation ("Hartz") and complained of by Petitioner to be lawful and proper meeting all requirements of KRS 344 et seq. and the Pregnancy Discrimination Amendment to the Civil Rights Act of 1964 42 U.S.C. 2000 (e) et seq. The Sixth Circuit, relying on this Court's decision in California Federal Savings & Loan Assoc. v. Guerra, 479 U.S. 272, 107 S. Ct. 683 (1987), made similar findings and held Hartz's Policy to be clearly lawful as well as consistent with the letter and spirit of Title VII, The PDA & KRS 344 et seq. Even the Dissenting Opinion (Nelson, J.) agreed in principle with the majority's interpretation of Guerra. (Pet. Writ 9).

Upon a thorough search of all available law through the date of this Memorandum, no contrary decisions have been found. The Circuits are in complete accord in both their overall interpretation of Guerra, and their application of Guerra's holding to similar facts.

Both the U.S. District Court for the Western District of Ky. and the United States Court of Appeals for the Sixth Circuit have correctly decided this issue and this case. Their opinions express a clear understanding of this Court's holding in Guerra. The precious time of the United States Supreme Court should not be wasted on cases so properly decided in the courts below. THEREFORE, the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

Ronald D. Ray
Counsel for Respondent

Certificate of Service

I hereby certify that on this 6th day of December, 1989, three copies of the Memorandum Opposing Certiorari were mailed, postage prepaid to Phillip C. Kimball, 545 South Shelby Street, Louisville, KY 40202 & Samuel G. Hayward, 8th Floor Bank of Louisville Bldg., Louisville, KY 40202, Co-Counsel for Petitioner. I further certify that all parties required to be served have been served.

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